IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
REVIEW PETITION NO.1 OF 2005
IN
ARBITRATION PETITION NO.137 OF 2004

M/s.Sham Lal Bankey Bihari ..Petitioners.
(Orig.Defts.)

Vs.

M/s.Kailash & Co. ..Respondents.
(Orig.Plffs.)

Mr.V.R.Dhond i/b.Mr.Ajay Panikar for the Petitioners.

Mr.K.H.Mody i/b.Mr.J.S.Salunke for the Respondents.

CORAM: S.J.VAZIFDAR, J.
DATED: 10TH JUNE, 2005

P.C. :

This Review Petition is in respect of an order dated 18th June, 2004. Earlier, against the said order, an Appeal being Appeal No.437 of 2004 was filed. It was represented to the Appeal Court that it was argued before me that the arbitral tribunal at the back of the Appellant took on record various documents placed by the Respondent after the arguments before the arbitral tribunal were concluded but that I did not deal with this submission. The learned counsel appearing on behalf of the Apellant/Review Petitioner prayed for withdrawal of the Appeal with liberty to file a Review Application. That is how the present Review

Petition came to be filed.

2. It is difficult to recollect after a period of one year as to whether or not the above contention is correct. Such grievances are unfair to the Court when made after such a lapse of time. I do not, in any event, recollect such a submission having been made. There is not a single grievance in this regard made in the Memorandum of Appeal. I kept the matter back to enable Mr.Dhond to ascertain whether in the Memorandum of Appeal a ground was taken that the arguments urged on behalf of the Appellant were not considered in the order dated 18th June, 2004. Mr.Dhond conceded that no such grievance was made. Surely, if the grievance was justified, such a ground would have been taken in the Memorandum of Appeal.

3. The Review Petition was filed in October, 2004. The Petitioners have moved the same for the first time only now. The contention is that as I was earlier on a Division Bench the Review Petition could not be mentioned earlier. This is incorrect. A party seeking a review is entitled to do so even in chambers after notice to all the parties. In fact, this is the normal practice in this Court and

adopted on a regular basis when the Judge whose order is sought to be reviewed has a different assignment at the time the Review Petition is moved.

4. Admittedly, no such grievance was made when the order was passed. It was raised only at the hearing before the Appeal Court.

5. These facts indicate that the grievance is not justified and has been raised only with a view to delay the matter.

The Review Petition is therefore dismissed.